

December 3, 2007

Matthew Christopher City of New Castle 220 Delaware Street New Castle, DE 19720

RE: PLUS review – PLUS 2007-10-16; City of New Castle Comprehensive Plan

Pre-update Review

Dear Mr. Christopher:

Thank you for meeting with State agency planners on October 31, 2007 to discuss the update of the City of New Castle comprehensive plan. State agencies have reviewed your current plan and have asked that the following be considered when you update your plan for 2008.

## Office of State Planning Coordination - Contact: Herb Inden 739-3090

First I would like to thank you for being one of the first municipalities to sign up for this new voluntary, pre-PLUS, review process for municipal comprehensive plans. This new process in which we review the current plan prior to it's update, is more in keeping with the intent of PLUS, which is to give the State's comments early in the process to make it easier to incorporate these comments before too much is invested. It is our hope that you will find this more useful in updating your plan.

The 2003 plan was very far-reaching in its scope and quite action oriented in that it presented an extensive program of goals and strategies. One of the key items we will be looking for from this update is how the goals and strategies have faired since the plan was adopted. We would assume that some items will drop out of the update due to their

implementation and/or unsuitability at this point due to a change of conditions (e.g., Route 9 bypass). There might also be new items added due to the arising of new issues. With this update, it might be helpful to look at your goals and strategies with estimated timeframes in mind (e.g., 18 months, within 3 or 5 years and beyond 3 or 5 years). Such information will help you and the state to better plan for and assess abilities to provide necessary resources to achieve such goals and strategies.

We look forward to working with you on this update. Please feel free to contact our office for additional assistance or information as you move through your update process.

#### Division of Historical and Cultural Affairs – Contact: Terrance Burns 739-5685

New Castle is one of jewels of Delaware, one of our most important historic communities. The State through the Division of Historical and Cultural Affairs has recently invested in the restoration of the New Castle Courthouse Museum. This plan integrates historic preservation in the plan but the implementation of the identified strategies has not been undertaken, according to the annual report, at any level. The reasons for this lack of action should be identified and the strategies re-evaluated to be more accomplishable in the next planning cycle.

## **Department of Transportation – Contact: Bill Brockenbrough 760-2109**

The City of New Castle is preparing to update their 2003 Comprehensive Plan and has requested a review of the 2003 document for assistance in preparing the update. DelDOT comments are as follows:

- 1) While DelDOT regulations continue to evolve, they don't know of any that would directly affect New Castle's comprehensive plan.
- The City's 2003 plan includes several transportation improvements, which are in various phases of planning, design and construction. Most of these improvements are still viable, but in recent years DelDOT has had to adjust its Capital Transportation Program, with the result that many of our projects will not be built as quickly as previously anticipated. DelDOT recommends that the City contact the relevant DelDOT project managers for schedule updates. In instances where the project manager is not known or no project manager has been assigned, our Assistant Director for Project Development North, Mr. Drew Boyce, will serve as an initial contact regarding projects that are actively being developed, designed or built. Ms. Roberta Geier, a Planning Supervisor in our Statewide & Regional Planning Section, may be contacted regarding proposed improvements that are not yet being developed into specific projects. Mr. Boyce may be reached at (302) 760-2276. Ms. Geier may be reached at (302) 760-2119.

One project in the 2003 Plan, to create a Route 9 bypass south of Dobbinsville and Washington Park, is no longer viable. The City effectively rendered such a bypass unbuildable in 2006 when it approved the plan for the River Bend development. DelDOT appreciates that traffic through those neighborhoods may still be an issue, but the City must now look at strategies for managing that traffic on the existing alignment of Route 9 for the long term, as well as the short term.

# <u>The Department of Natural Resources and Environmental Control - Contact:</u> <u>Kevin Coyle 739-9071</u>

#### **Water Resources**

1. Page 33, Infrastructure Plan - Water Supply – Identification of New Water Sources

The City appears to be identifying new sources of water for additional supply. The Water Allocation Permit will need to be amended for any new wells.

2. Page 33, Infrastructure Plan - Water Supply – Wellhead Protection

DNREC Water Supply Section, Ground Water Protection Branch, found wellhead protection areas within the municipal boundary. There does not appear to be excellent ground-water recharge potential areas within the municipal boundary.

3. Page 35, Infrastructure Plan – Recommended Community Infrastructure Goals, Goal #2

According to Section 6082(b), Title 7, Delaware Code, Chapter 60, Subchapter VI, municipalities with populations of 2,000 persons or more, with the assistance of the Department, shall adopt as part of the update and implementation of the 2007 Comprehensive Land Use Plans, the overlay maps delineating, as critical areas, source water assessment, wellhead protection and excellent ground-water recharge potential areas. Furthermore, the municipalities shall adopt, by December 31, 2007, regulations governing the use of land within those critical areas designed to protect those critical areas from activities and substances that may harm water quality and subtract from overall water quantity.

This section should more clearly reflect the City's continuing commitment to protection of its water supply in light of this requirement.

The Ground Water Protection Branch encourages the City to work with Delaware Rural Water Association (DRWA) to develop a source water protection ordinance. We look forward to reviewing the resulting regulations and providing any assistance to the City as needed.

4. Page 69, Environmental Protection Plan – Inventory of Critical Natural Resources

This section should be strengthened to protect water quality. The City of New Castle has not had load reductions set through a Total Maximum Daily Load (TMDL). This is scheduled to be addressed by December 2011 (the watershed in which the City of New Castle lies was inadvertently left off the 1996 Consent Decree's impaired waters list). It is likely that the City of New Castle, like the rest of the State, may have problems with nutrients and bacteria running off the land and into the water. A pollution control strategy may be needed.

A Pollution Control Strategy (PCS) specifies actions necessary to systematically achieve pollutant load reductions specified by a TMDL for a water body. Best Management Practices that would assist the Town in reaching pollution reductions include:

- Wetlands Preservation
- 100-foot Riparian Buffers
- Native Plants
- Cap Impervious Surfaces at 20%
- Protect Open Space
- Prohibiting the Placement of New Lot Lines Within Wetlands
- Use Green Technologies for Stormwater Management

In advance of any PCS, the City may address controlling nutrients and bacteria by storm water controls, protecting riparian areas, wetlands and floodplains, buffering aquatic resources and plantings. New Castle County, including the City of New Castle, is subject to the Municipal Separate Storm Sewer System (MS-4) Program. Information is available at <a href="http://www.deldot.gov/stormwater/whyregulated.shtml">http://www.deldot.gov/stormwater/whyregulated.shtml</a>

## **Sediment and Erosion Control/ Stormwater Management**

The following is a menu of topical <u>recommendations</u> for the City of New Castle to consider in the update/revision of the Comprehensive Land Use Plan and future ordinances and codes. The recommendations focus on stormwater, flooding, and dam safety. We hope that as you work to revise the City's Comprehensive Land Use Plan, codes, and ordinances that you will consider incorporating some or all of these

recommendations. Division staff is available to provide clarification or technical assistance if you would find this to be helpful. Please contact Jennifer Campagnini at 302.739.9921 or <a href="Jennifer.campagnini@state.de.us">Jennifer.campagnini@state.de.us</a> for further assistance. Again, we thank you for considering these critical components.

## 1. Stormwater and water quality

The Sediment and Stormwater Program has staff available to provide information and/or outreach to homeowner associations and the City upon request on proper maintenance of stormwater best management practices, including ponds.

We recommend a provision in future development ordinances, that as a parcel is <u>redeveloped</u>, if there is an opportunity to incorporate or retrofit to incorporate green technology or conservation design, that it be considered and implemented if practicable.

The Division of Soil and Water Conservation is requesting that the City require proposed development projects to hold a pre-application meeting with the delegated agency – the New Castle Conservation District - to discuss stormwater and drainage prior to the town reviewing and/or approving plans or issuing building permits. The Sediment and Stormwater Program will begin requiring a pre-application meeting for all proposed land disturbing activities that require a detailed Sediment & Stormwater Plan within the coming year. These meetings are structured to assist developers in the design process and for early notification of approval requirements. In order to schedule a pre-application meeting, the applicant must forward a completed Stormwater Impact Study (SIS) to the appropriate Delegated Agency. A draft of the application materials is available. Responsibilities for the various elements of the pre-application meeting shall be as follows:

### **Applicant**

Provide contact information for both owner/developer and consultant.

Submit SIS checklist items.

Record meeting minutes.

## **Delegated Agency**

Schedule the pre-application meeting.

Ensure all relevant topics are addressed during the meeting.

Forward SIS Findings Report to appropriate planning agency.

Lines and grades: If the City does not have a lines and grades requirement for new construction, the Division recommends this be considered to help resolve drainage issues arising from new construction during and post construction. County/municipal building inspectors would be able to use approved lines and grades requirement to field verify prior to issuance of Certificate of Occupancy or building permit, as appropriate.

Some additional items and information for you to consider:

- The Sediment and Stormwater Program will be reviewing and updating the existing Sediment and Stormwater Regulations over the next year. Most of the State and local regulations have focused on new development. However, many existing storm water runoff issues are associated with older developments built prior to the adoption of stormwater regulations in 1990. Managing surface water for quality as well as quantity has become a major focus as well. Awareness of water quality concerns and regulations have required us to explore methods for quality and quantity management in new development as well as opportunities for retrofits and restorations.
- Best management practices: Stormwater management impacts on excellent recharge areas. SWM ponds may be considered impervious cover in these areas. Green technology best management practices which promote infiltration of stormwater are preferred where feasible. Often times, developers prefer the use of ponds for the use of the excavated fill, aesthetics and economics rather than considering alternative practices that may provide better stormwater treatment functions for the site.
- The Division has been seeing more small construction projects without approval from the Delegated Agencies. Sediment and Stormwater Regulations require a Sediment and Stormwater Plan for land disturbing activity 5,000 square feet or greater. Land disturbing activity may be more than the building footprint. Land disturbing activity means a land change or construction activity for residential, commercial, industrial, and institutional land use which may result in soil erosion from water or wind or movement of sediments or pollutants into State waters or onto lands in the State, or which may result in accelerated stormwater runoff, including but not limited to clearing, grading, excavating, transporting, and filling land.

### 2. Recommendations from the Governor's Surface Water Management Task Force

The following is a list of recommendations for municipalities that were recommended by the Governor's Task Force on Surface Water Management.

• Local land use and zoning ordinances should be modified to allow and encourage Conservation Design. "Conservation Design should be

implemented as a way to reduce reliance on structural stormwater management practices." According to Randall Arendt, Conservation Design is defined as community design that encourages the preservation of open space and natural areas while enhancing the market value of land development. Conservation Design is relatively new, thus maintenance costs are unknown and estimated costs need to be determined. If this concept is endorsed, the State will review standards, specifications and guidelines to ensure statewide consistency. If Conservation Design utilizing nonstructural stormwater management approaches is more widely accepted, the number of structural facilities will be reduced, thus reducing operation and maintenance costs for those facilities.

## [REC #22, GOV SWM TASK FORCE]

• Stable channels provide the benefit of conveying their water and sediment through the watershed resulting in fewer "maintenance" problems that will require outside attention. Stable channels, while not unchanging, are those that maintain their general dimension, pattern, and profile without excessive sediment deposition and accumulation or downcutting and erosion.

The concept of restoring stream channels to "stable" conditions should be promoted and incentives offered wherever possible to reduce future maintenance costs and improve water quality and habitat and to ensure that proposed solutions will not contribute to additional stream channel instability.

#### [REC #24, GOV SWM TASK FORCE]

- Shared stormwater facilities, {or a regional stormwater plan}, should be strongly encouraged to minimize costs, encourage environmental protection, and support ecosystems. Decisions should be made by teams of competent and qualified engineering, scientific, technical, and regulator personnel (interdisciplinary teams). [REC #21, GOV SWM TASK FORCE]
- Stormwater Utilities: Stormwater utilities operating at the county or local level should be formed as a funding vehicle for the purpose of providing a simplified and comprehensive approach to drainage and flooding problems. The utility would be a mechanism to provide necessary funding for implementing improved surface water management. [REC #5A, GOV SWM TASK FORCE]

#### 3. Shoreline Management

• Contact the Shoreline Management Program to discuss options for shoreline protection.

## 4. Flooding/Floodplain

• The Division is in the process of developing a model Floodplain Ordinance. We can make that available if applicable.

## 5. Dam Safety

• An inventory of dams is currently being developed by DNREC as well as new regulations. Dams will be classified in three hazard classifications based on impact and risk to public health and safety. Failure of a High risk dam will cause loss of like; failure of a dam with significant risk may cause loss of life, and failure of a low risk dam will not cause loss of life, but may have other impacts. Each classification of dams will have different technical requirements that it must meet when the State Regulations are promulgated. If development occurs downstream of a dam, the hazard class could change. A change in the hazard class could require a dam owner (whether public or private) to have to upgrade a dam to meet the higher technical requirements. Some towns have sewage lagoons with dams that may qualify as a regulated dam.

#### Contacts

The following programs/contacts can be reached with the address and phone number listed below, unless otherwise noted.

Division of Soil and Water Conservation 89 Kings Highway Dover, DE 19901 302.739.9921 (ph)

- Drainage and Stormwater Section Jennifer Campagnini, Planner Jennifer.campagnini@state.de.us
- Sediment and Stormwater Program Jamie Rutherford, Program Manager Jamie.Rutherford@state.de.us

## • Dam Safety Program

Dave Twing, Engineer David.Twing@state.de.us

# • Shoreline Management Program

Chuck Williams, Program Manager Charles, williams@state.de.us

## • Urban Nutrient Management

Laura Whalen
DNREC Watershed Assessment Section
Laura.whalen@state.de.us

# • DNREC Drainage and Tax Ditch Program – Dover Office

Bob Enright, Program Manager Robert.enright@state.de.us

# • Floodplain Management Program

Mike Powell, Environmental Scientist Michael.powell@state.de.us

#### **Bald Eagles**

There is an active Bald Eagle nest located within City limits adjacent to and west of Swedes Square development. The nest is located within an area of trees that border the freshwater marsh. This nest needs to be protected from future encroachment by leaving the existing trees at the location of the nest as well as those that extend to the north forming a small woodlot. This small woodlot is designated for 'residential' use on page 28, Map 2b (#5) Suggested Land Use. This area should not be cleared or converted to another land use as long as the nest is legally active. The City should be aware that Bald Eagle are protected by the Federal Bald and Golden Eagle Protection Act and by Title 7 of the Delaware Code, Chapter 1. This includes protection for the nest and for zones around the nest. The woodlot mentioned above is completely or partially within the protection zones of this nest.

#### **State Rare Species and Wetland Habitat Protection**

There are several rare species within City limits, most of which are associated with freshwater wetlands along the Delaware River shore and the Broad Dyke Canal. An effort to maintain existing upland buffers around these wetlands is very important if rare species are to persist. If a land use change occurs, a minimum of 100-foot upland buffers comprised of existing vegetation should be maintained along the boundaries of the wetlands.

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On Page 69, Goal #1, the plan mentions the importance of wetland and forested buffers along the river, but no specific measures are mentioned.

"2. Protect wetlands and woodlands along the river shore and banks from development as these have ecological values associated with flood protection."

DNREC would like *specific* protective measures mentioned. We would also like to see protective measures extended to those freshwater wetlands associated with Broad Dyke Canal and Army Creek.

#### **Forest Protection**

DNREC recommends that efforts be made to maintain existing forested areas, including a sizable forest block that is designated as 'mixed use' on the Annexation Map (Map #2).

Cumulative forest loss throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State's wildlife (see <a href="www.fw.delaware.gov">www.fw.delaware.gov</a> and the Delaware State Code, Title 7). Because of an overall lack of forest protection, we have to rely on applicants and/or the entity that approves projects (i.e. counties and municipalities) to implement measures that will aide in forest loss reduction.

## **Department of Agriculture - Contact: Scott Blaier 698-4500**

The Department commends the City in participating in the "pre Plus" process for updating their existing comprehensive plan. The Department offers the comments below for the City's consideration when you write you plan.

The Department encourages the city to develop and promote agricultural business whenever possible. The Department now has a fully staffed marketing section, and we encourage the city to contact them at (302) 698-4535 to see how they can help.

Although the city has no plans for annexation or large scale growth, we encourage you to become a receiving area for transfer of development right (TDR) credits wherever possible. The state has proposed legislation to facilitate and ease the TDR process, and is hopeful that the legislation will be enacted into law in 2008.

The Delaware Forest Service would like to work with the City of New Castle to develop a comprehensive urban forestry plan that would address relevant issues within the Town. Trees should be considered a part of the Town's infrastructure just as roads and utilities. Planning to include tree conservation during development, and tree canopy goals would

dovetail with goals already stated in the current update of the comprehensive plan. Please contact the Delaware Forest Service at (302) 659-6705 for more information.

## Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

### Delaware State Housing Authority – Contact Vicki Powers 739-4263

DSHA has reviewed the existing Certified Comprehensive Plan to advise the City of New Castle of new regulations passed since its certification in 2005 that should be included in their scheduled update. Since 2005 there has not been new regulations passed for housing, however Delaware and throughout the country have experienced a housing boom and resulting escalation in housing prices. Due to rising home prices, many working individuals and families have been left behind. Comparatively few new homes have been developed affordable to what is termed as Delaware's "workforce households" with incomes below 100 percent of the median income, based on HUD 2006, 100% of median income is \$67,500. As a result, DSHA encourages the City of New Castle to pursue a balanced stock, in the development of their Comprehensive Plan that will allow residents a choice in where they want to live without putting a strain on their purse strings. A balanced housing stock in any city can significantly improve the quality of life for residents and the economic competitiveness of the region. It is imperative to think about housing because New Castle's housing stock is its largest long-term investment.

DSHA has provided a guide to help assist in writing any city's housing element: *Creating a Balanced Housing Stock: A Guide to Writing Your Town's Housing Element* outlines the steps in preparing a housing element for any Comprehensive Plan. Furthermore, DSHA is willing to work with the City of New Castle to provide data and technical assistance. In addition to our guide we have developed a website, Affordable Housing Resource Center, to learn about resources to help address the City's housing needs.

The DSHA website can be found at: <a href="www.destatehousing.com">www.destatehousing.com</a> "Affordable Housing Resource Center" under our new initiatives.

The guide can also be found on the Affordable Housing Resource Center under Housing Element, or by using the link below.

http://www.destatehousing.com/services/servicesmedia/tb\_housing\_element\_guide.pdf

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If you have any questions, please feel free to call me at (302)739-4263 ext. 219 or via email at vicky@destatehousing.com. Thank you.

# <u>Department of Education – Contact: John Marinucci 735-4055</u>

DOE has no comments regarding new regulations affecting updates to the existing Comp. Plan.

Thank you for the opportunity to review this project. The State agencies look forward to working with the City as you update your plan. Please feel free to contact us if you need additional information while preparing this update.

Sincerely,

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Constance C. Holland, AICP

Director